

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK
AT BOWLING GREEN

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In re:

Chapter 7
Case No: 09-11061-MG

FRGR MANAGING MEMBER LLC,

Debtor.
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**STIPULATION AND ORDER BY AND BETWEEN THE CHAPTER 7
TRUSTEE AND CITIGROUP GLOBAL MARKETS REALTY CORPORATION
PURSUANT TO OPINION AND ORDER GRANTING MOTION OF
U.S. TRUSTEE CONVERTING CASE TO A CASE UNDER CHAPTER 7**

This stipulation (the “Stipulation”) is made by and between Salvatore LaMonica, as the Chapter 7 Trustee (the “Trustee”) on behalf of the estate of FRGR Managing Member LLC (the “Debtor”) and Citigroup Global Markets Realty Corporation (“Citigroup”).

RECITALS

WHEREAS, on March 9, 2009 (the “Filing Date”), the Debtor filed a petition for relief pursuant to chapter 11 of Title 11 of the United States Code (the “Bankruptcy Code”);

WHEREAS, on October 9, 2009, the Office of the United States Trustee filed a motion to convert the Debtor’s case to a chapter 7 case, or in the alternative, to dismiss the Debtor’s chapter 11 case (the “Motion to Convert”);

WHEREAS, at the hearing on the Motion to Convert, Citigroup, the Debtor’s largest unsecured creditor, agreed to provide up to \$50,000 to fund a chapter 7 trustee’s administration of the case and an investigation of the estate’s claims and defenses;

WHEREAS, in an Opinion and Order dated November 16, 2009, the Court converted the Debtor’s case to a case under chapter 7 of the Bankruptcy Code (the “Conversion Order”);

WHEREAS, on November 18, 2009, Salvatore LaMonica was appointed the Chapter 7 Trustee of the Debtor’s estate and is currently acting in that capacity.

NOW THEREFORE, in consideration of the mutual promises and other consideration described herein, the receipt and sufficiency of which are hereby acknowledged, the Trustee, on behalf of the Debtor's estate, and Citigroup, intending to be legally bound, hereby agree as follows:

1. Citigroup or its designated affiliate shall pay the Trustee, by certified or cashier's check or by wire transfer of same day funds, the amount of fifty thousand dollars (\$50,000) (the "Funds") within ten (10) days from the entry of an order approving this Stipulation.

2. The Trustee shall hold the Funds in a separate estate account in the name of the Debtor pending further order of the Bankruptcy Court.

3. The Funds shall only be used to pay the fees and expenses incurred by the Trustee, his counsel, and if sought, retained accountants to administer this estate and conduct an investigation of the estate's claims and defenses as set forth in the Conversion Order. Any disbursement of the Funds shall be subject to a further order of the Bankruptcy Court authorizing the payment of fees and expenses pursuant to Bankruptcy Code §§ 326, 327 and 330 ("Compensation Order"). The Funds will not be used to pay any of the claims filed and or otherwise asserted against the estate and any balance remaining after the conclusion of the Trustee's investigation and entry of a Compensation Order shall be returned to Citigroup.

4. The Bankruptcy Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation of this Stipulation.

5. This Stipulation may be executed by facsimile signature in separate counterparts and shall become effective only upon Bankruptcy Court approval.

6. This Stipulation is subject to approval by the Bankruptcy Court.

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IN WITNESS WHEREOF, the Parties have caused this Stipulation to be duly executed and delivered.

Dated: Wantagh, New York
December 23, 2009

LaMonica Herbst Maniscalco, LLP
Counsel to the Chapter 7 Trustee

By: s/ Gary F. Herbst
Gary F. Herbst, Esq.
3305 Jerusalem Avenue, Suite 201
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516.826.6500

Dated: New York, New York
January 5, 2010

Kramer Levin Naftalis & Frankel LLP
Counsel to Citigroup

By: s/ Elise Scherr Frejka
Marshall H. Fishman, Esq.
Elise Scherr Frejka, Esq.
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New York, NY 10036
212.715.9200

SO ORDERED: February 4, 2010

/s/Martin Glenn
United States Bankruptcy Judge